

Adopted	Rejected
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COMMITTEE REPORT

YES:	9
NO:	0

MR. SPEAKER:

Your Committee on **Family, Children and Human Affairs**, to which was referred
Senate Bill 328, has had the same under consideration and begs leave to report the same
back to the House with the recommendation that said bill **be amended** as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 10-13-3-27.5, AS AMENDED BY P.L.146-2006,
4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2007]: Sec. 27.5. (a) If:
6 (1) exigent circumstances require the emergency placement of a
7 child; and
8 (2) the department will be unable to obtain criminal history
9 information from the Interstate Identification Index before the
10 emergency placement is scheduled to occur;
11 upon request of the department of child services established by
12 IC 31-25-1-1, a caseworker, or a juvenile probation officer, the
13 department may conduct a national name based criminal history record
14 check of each individual **who is at least eighteen (18) years of age**
15 **and** who is currently residing in the location designated as the
16 out-of-home placement at the time the child will reside in the location.

1 The department shall promptly transmit a copy of the report it receives
 2 from the Interstate Identification Index to the agency or person that
 3 submitted a request under this section.

4 (b) Not later than seventy-two (72) hours after the department of
 5 child services, the caseworker, or the juvenile probation officer
 6 receives the results of the national name based criminal history record
 7 check, the department of child services, the caseworker, or the juvenile
 8 probation officer shall provide the department with a complete set of
 9 fingerprints for each individual **who is at least eighteen (18) years of**
 10 **age and** who is currently residing in the location designated as the
 11 out-of-home placement at the time the child will be placed in the
 12 location. The department shall:

13 (1) use fingerprint identification to positively identify each
 14 individual ~~who is currently residing in the location designated as~~
 15 ~~the out-of-home placement at the time the child will reside in the~~
 16 ~~location;~~ **whose fingerprints are provided to the department**
 17 **under this subsection; or**

18 (2) submit the fingerprints to the Federal Bureau of Investigation
 19 not later than fifteen (15) calendar days after the date on which
 20 the national name based criminal history record check was
 21 conducted.

22 The child shall be removed from the location designated as the
 23 out-of-home placement if an individual **who is at least eighteen (18)**
 24 **years of age and** who is currently residing in the location designated
 25 as the out-of-home placement at the time the child will reside in the
 26 location fails to provide a complete set of fingerprints to the department
 27 of child services, the caseworker, or the juvenile probation officer.

28 (c) The department and the person or agency that provided
 29 fingerprints shall comply with all requirements of 42 U.S.C. 5119a and
 30 any other applicable federal law or regulation regarding:

31 (1) notification to the subject of the check; and
 32 (2) the use of the results obtained based on the check of the
 33 person's fingerprints.

34 (d) If an out-of-home placement is denied as the result of a national
 35 name based criminal history record check, an individual who is
 36 ~~currently residing in the location designated as the out-of-home~~
 37 ~~placement at the time the child will reside in the location~~ **the subject**
 38 **of the name based criminal history record check** may contest the

denial by submitting to the department of child services, the caseworker, or the juvenile probation officer:

- (1) a complete set of the individual's fingerprints; and
- (2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to forward the fingerprints to the department for submission to the Federal Bureau of Investigation;

not later than five (5) days after the out-of-home placement is denied.

(e) The:

- (1) department; and
- (2) Federal Bureau of Investigation;

may charge a reasonable fee for processing a national name based criminal history record check. The department shall adopt rules under IC 4-22-2 to establish a reasonable fee for processing a national name based criminal history record check and for collecting fees owed under this subsection.

(f) The:

- (1) department of child services, for an out-of-home placement arranged by a caseworker or the department of child services; or
- (2) juvenile court, for an out-of-home placement ordered by the juvenile court;

shall pay the fee described in subsection (e), arrange for fingerprinting, and pay the costs of fingerprinting, if any."

Page 3, line 39, delete "IC 31-25-2-20" and insert "**IC 31-25-2-20.4**".

Page 5, line 8, after "age" insert "**as**".

Page 5, line 13, after "(1)(A)" insert "**, or a person for whom a fingerprint based criminal history background check is required under IC 31,**".

Page 5, line 26, after "office"" delete "," and insert "**or "county office of family and children",**".

Page 6, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 9. IC 31-9-2-38.5, AS AMENDED BY P.L.145-2006, SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 38.5. "Department", for purposes of IC 31-19, ~~IC 31-25~~, ~~IC 31-26~~, ~~IC 31-27~~, ~~IC 31-28~~, ~~IC 31-33~~, ~~IC 31-34~~, ~~IC 31-38~~, and **IC 31-25 through IC 31-40**, has the meaning set forth in IC 31-25-2-1."

1 Page 8, between lines 7 and 8, begin a new paragraph and insert:

2 "SECTION 18. IC 31-19-11-1, AS AMENDED BY P.L.140-2006,
3 SECTION 17, AS AMENDED BY P.L.173-2006, SECTION 17, AND
4 AS AMENDED BY P.L.145-2006, SECTION 253, IS CORRECTED
5 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
6 2007]: Sec. 1. (a) Whenever the court has heard the evidence and finds
7 that:

- 8 (1) the adoption requested is in the best interest of the child;
9 (2) the petitioner or petitioners for adoption are of sufficient
10 ability to rear the child and furnish suitable support and
11 education;
12 (3) the report of the investigation and recommendation under
13 IC 31-19-8-5 has been filed;
14 (4) the attorney or agency arranging an adoption has filed with the
15 court an affidavit prepared by the state department of health under
16 IC 31-19-5-16 indicating whether a man is entitled to notice of the
17 adoption because the man has registered with the putative father
18 registry in accordance with IC 31-19-5;
19 (5) proper notice arising under subdivision (4), if notice is
20 necessary, of the adoption has been given;
21 (6) the attorney or agency has filed with the court an affidavit
22 prepared by the state department of health under:
23 (A) IC 31-19-6 indicating whether a record of a paternity
24 determination; or
25 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit
26 executed under IC 16-37-2-2.1;
27 has been filed in relation to the child;
28 (7) proper consent, if consent is necessary, to the adoption has
29 been given;
30 (8) the petitioner for adoption is not prohibited from adopting the
31 child as the result of an inappropriate criminal history described
32 in subsection (c) or (d); and
33 (9) the person, licensed child placing agency, or county office of
34 family and children that has placed the child for adoption has
35 provided the documents and other information required under
36 IC 31-19-17 to the prospective adoptive parents;
37 the court shall grant the petition for adoption and enter an adoption
38 decree.

(b) A court may not grant an adoption unless the ~~department's state~~
~~department of health's~~ affidavit under IC 31-19-5-16 is filed with the
 court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health
 and safety of a child by a petitioner for adoption is a permissible basis
 for the court to deny the petition for adoption. In addition, the court
 may not grant an adoption if a petitioner for adoption has been
 convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

(7) Domestic battery (IC 35-42-2-1.3).

~~(7)~~ **(8)** Aggravated battery (IC 35-42-2-1.5).

~~(8)~~ **(9)** Kidnapping (IC 35-42-3-2).

~~(9)~~ **(10)** Criminal confinement (IC 35-42-3-3).

~~(10)~~ **(11)** A felony sex offense under IC 35-42-4.

~~(11)~~ **(12)** Carjacking (IC 35-42-5-2).

~~(12)~~ **(13)** Arson (IC 35-43-1-1).

~~(13)~~ **(14)** Incest (IC 35-46-1-3).

~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and
 IC 35-46-1-4(a)(2)).

~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).

~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or
 IC 35-47.5.

~~(17)~~ **(18)** A felony relating to controlled substances under
 IC 35-48-4.

~~(18)~~ **(19)** An offense relating to material or a performance that is
 harmful to minors or obscene under IC 35-49-3.

~~(19)~~ **(20)** A felony that is substantially equivalent to a felony
 listed in subdivisions (1) through ~~(18)~~ **(19)** for which the
 conviction was entered in another state.

However, the court is not prohibited from granting an adoption based
 upon a felony conviction under subdivision (6), ~~(11)~~, (12), **(13)**, ~~(16)~~,
 or (17), or **(18)**, or its equivalent under subdivision ~~(19)~~, **(20)**, if the
 offense was not committed within the immediately preceding five (5)

- 1 year period.
- 2 (d) A court may not grant an adoption if the petitioner is ~~an~~ a sex
- 3 offender (as defined in ~~IC 31-25-2-20~~ IC 11-8-8-5).".
- 4 Page 8, line 8, delete "IC 31-25-2-20" and insert "IC 31-25-2-20.4".
- 5 Page 8, line 10, delete "20." and insert "**20.4**".
- 6 Page 9, line 42, strike "submit".
- 7 Page 11, line 4, delete "national".
- 8 Page 11, line 7, after "volunteer" delete "in" and insert "**to**".
- 9 Page 11, line 17, delete "national".
- 10 Page 11, line 41, delete "applicant" and insert "**applicant's**".
- 11 Page 12, line 10, delete "record information".
- 12 Page 13, line 12, delete "IC 31-27-4-13(a); or" and insert "**IC**
- 13 **31-27-4-13(a)**".
- 14 Page 13, line 25, strike "(a)(2)," and insert "**(a) or (b)**".
- 15 Page 13, line 27, after "conviction of" insert "**, or a determination**
- 16 **of child abuse or neglect by,**".
- 17 Page 13, line 30, after "of" insert "**, or determination of child**
- 18 **abuse or neglect by,**".
- 19 Page 14, line 11, delete "IC 31-25-2-20." and insert "**IC**
- 20 **31-25-2-20.4**".
- 21 Page 15, line 11, delete "IC 31-27-4-13(a); or" and insert "**IC**
- 22 **31-27-4-13(a)**".
- 23 Page 15, line 24, after "subsection" insert "**(a) or**".
- 24 Page 15, line 25, delete "A license" and insert "**a license**".
- 25 Page 15, line 25, delete "of" and insert "**of, or a determination of**
- 26 **child abuse or neglect by,**".
- 27 Page 15, line 29, delete "conviction;" and insert "**conviction or**
- 28 **determination;**".
- 29 Page 15, line 30, after "of" insert "**, or determination of child**
- 30 **abuse or neglect by,**".
- 31 Page 17, line 7, delete "national".
- 32 Page 17, line 14, delete "national".
- 33 Page 17, line 29, delete "national".
- 34 Page 18, line 11, delete "applicant" and insert "**applicant's**".
- 35 Page 18, line 22, delete "record information".
- 36 Page 18, line 39, after "applicant" delete ", ".
- 37 Page 19, line 19, delete "adult" and insert "**individual**".
- 38 Page 19, line 25, delete "IC 31-27-4-13(a); or" and insert "**IC**

1 **31-27-4-13(a).".**

2 Page 19, line 29, delete "." and insert "**or to permit the individual**
3 **to reside in the applicant's residence.**".

4 Page 19, between lines 37 and 38, begin a line block indented and
5 insert:

6 **"(5) The nature and extent of unsupervised contact with**
7 **children residing in the home."**

8 Page 19, line 38, strike "(a)(2)," and insert "**(a) or (b),**".

9 Page 19, line 40, after "of" insert "**, or a determination of child**
10 **abuse or neglect by,**".

11 Page 20, line 3, after "of" insert "**, or determination of child abuse**
12 **or neglect by,**".

13 Page 20, between lines 6 and 7, begin a new paragraph and insert:

14 "SECTION 2. IC 31-27-4-13, AS ADDED BY P.L.145-2006,
15 SECTION 273, IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The department shall deny
17 a license when an applicant fails to meet the requirements for a license.
18 The department shall deny a license to an applicant who has been
19 convicted of any of the following felonies:

20 (1) Murder (IC 35-42-1-1).

21 (2) Causing suicide (IC 35-42-1-2).

22 (3) Assisting suicide (IC 35-42-1-2.5).

23 (4) Voluntary manslaughter (IC 35-42-1-3).

24 (5) Reckless homicide (IC 35-42-1-5).

25 (6) Battery (IC 35-42-2-1).

26 **(7) Domestic battery (IC 35-42-2-1.3).**

27 ~~(7)~~ **(8)** Aggravated battery (IC 35-42-2-1.5).

28 ~~(8)~~ **(9)** Kidnapping (IC 35-42-3-2).

29 ~~(9)~~ **(10)** Criminal confinement (IC 35-42-3-3).

30 ~~(10)~~ **(11)** A felony sex offense under IC 35-42-4.

31 ~~(11)~~ **(12)** Carjacking (IC 35-42-5-2).

32 ~~(12)~~ **(13)** Arson (IC 35-43-1-1).

33 ~~(13)~~ **(14)** Incest (IC 35-46-1-3).

34 ~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and
35 IC 35-46-1-4(a)(2)).

36 ~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).

37 ~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or
38 IC 35-47.5.

1 ~~(17)~~ **(18)** A felony relating to controlled substances under
2 IC 35-48-4.

3 ~~(18)~~ **(19)** An offense relating to material or a performance that is
4 harmful to minors or obscene under IC 35-49-3.

5 ~~(19)~~ **(20)** A felony that is substantially equivalent to a felony
6 listed in subdivisions (1) through ~~(18)~~ **(19)** for which the
7 conviction was entered in another state.

8 The department may deny a license to an applicant who has been
9 convicted of a felony that is not listed in this subsection.

10 (b) The department shall send written notice by certified mail that
11 the application has been denied and give the reasons for the denial.

12 (c) An administrative hearing concerning the denial of a license
13 shall be provided upon written request by the applicant. The request
14 must be made not more than thirty (30) days after receiving the written
15 notice under subsection (b).

16 (d) An administrative hearing shall be held not more than sixty (60)
17 days after receiving a written request.

18 (e) An administrative hearing shall be held in accordance with
19 IC 4-21.5-3.

20 (f) The department shall issue a decision not more than sixty (60)
21 days after the conclusion of a hearing."

22 Page 20, line 26, delete "IC 31-25-2-20." and insert "**IC**
23 **31-25-2-20.4**".

24 Page 21, line 18, delete "adult" and insert "**individual**".

25 Page 21, line 23, delete "IC 31-27-4-13(a); or" and insert "**IC**
26 **31-27-4-13(a)**".

27 Page 21, line 27, delete "." and insert "**or to permit the individual**
28 **to reside in the licensee's residence**".

29 Page 21, line 37, delete "A license" and insert "**a license**".

30 Page 21, line 37, delete "of" and insert "**of, or a determination of**
31 **child abuse or neglect by**".

32 Page 21, line 38, delete ";" and insert "**or an individual residing in**
33 **the residence of the licensee**";

34 Page 21, line 41, delete ";" and insert "**or that the individual no**
35 **longer resides in the licensee's residence**";

36 Page 21, line 42, after "of" insert ", **or determination of child**
37 **abuse or neglect by**".

38 Page 21, line 42, delete "employee or" and insert "**employee**".

- 1 Page 22, line 1, delete "volunteer" and insert "**volunteer, or former**
- 2 **household resident**".
- 3 Page 23, line 28, delete "national".
- 4 Page 23, line 42, delete "national".
- 5 Page 24, line 24, delete "applicant" and insert "**applicant's**".
- 6 Page 24, line 35, delete "record information".
- 7 Page 26, line 18, strike "(a)(2)," and insert "**(a) or (b),**".
- 8 Page 26, line 20, after "conviction of" insert ", **or a determination**
- 9 **of child abuse or neglect by,**".
- 10 Page 26, line 23, after "of" insert ", **or determination of child**
- 11 **abuse or neglect by,**".
- 12 Page 27, line 3, delete "IC 31-25-2-20." and insert "**IC**
- 13 **31-25-2-20.4.**".
- 14 Page 28, line 16, after "subsection" insert "**(a) or**".
- 15 Page 28, line 17, delete "A license" and insert "**a license**".
- 16 Page 28, line 17, delete "of" and insert "**of, or a determination of**
- 17 **child abuse or neglect by,**".
- 18 Page 28, line 22, after "of" insert ", **or determination of child**
- 19 **abuse or neglect by,**".
- 20 Page 30, delete lines 9 through 17, begin a new paragraph and
- 21 insert:
- 22 "**(h) A criminal history background check required under**
- 23 **subsection (d)(2) or (d)(3) must be completed on or before the date**
- 24 **on which the subject of the check is employed or assigned as a**
- 25 **volunteer. However, a fingerprint based criminal history**
- 26 **background check as described in IC 31-9-2-22.5(1)(B) and**
- 27 **required under subsection (d)(3) must be completed not later than**
- 28 **the conclusion of the first ninety (90) days of employment in or**
- 29 **assignment of a volunteer to a position described in subsection**
- 30 **(d)(3). If a person described in this subsection has been the subject**
- 31 **of a criminal history background check (as described in**
- 32 **IC 31-9-2-22.5) that was conducted not more than one (1) year**
- 33 **before the date the license application is submitted to the**
- 34 **department, a new criminal history check of that person is not**
- 35 **required.**
- 36 **(i) An applicant or a licensee may provisionally employ an**
- 37 **individual or assign a volunteer for whom a criminal history**
- 38 **background check is required under subsection (d)(3) during the**

period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received within ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or a volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or an employee of the applicant or licensee who has been the subject of a completed and approved criminal history background check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant's or licensee's operations."

Page 30, line 18, delete "(i)" and insert "(j)".

Page 30, line 25, delete "(j)" and insert "(k)".

Page 30, line 28, delete "record information".

Page 31, line 21, after "that the" insert "**applicant**".

Page 32, line 1, strike "(a)(2)," and insert "**(a) or (b),**".

Page 32, line 3, after "conviction of" insert ", **or a determination of child abuse or neglect by,**".

Page 32, line 6, after "of" insert ", **or determination of child abuse or neglect by,**".

Page 32, line 25, delete "IC 31-25-2-20." and insert "**IC 31-25-2-20.4.**".

Page 32, line 39, delete ",".

Page 33, line 38, after "subsection" insert "**(a) or**".

- 1 Page 33, line 39, delete "A license" and insert "**a license**".
- 2 Page 33, line 39, delete "of," and insert "**of, or a determination of**
- 3 **child abuse or neglect by,**".
- 4 Page 34, line 1, delete "conviction;" and insert "**conviction or**
- 5 **determination;**".
- 6 Page 34, line 2, after "of" insert "**, or determination of child abuse**
- 7 **or neglect by,**".
- 8 Page 34, between lines 5 and 6, begin a new paragraph and insert:
- 9 "SECTION 37. IC 31-32-1-4 IS ADDED TO THE INDIANA CODE
- 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 11 1, 2007]: **Sec. 4. (a) Any written notice of a hearing or other court**
- 12 **proceeding in a child in need of services case under IC 31-34 or a**
- 13 **delinquency case under IC 31-37 shall be given to:**
- 14 (1) a party in the manner provided by Rule 5 of the Indiana
- 15 Rules of Trial Procedure; or
- 16 (2) an individual who is not a party by:
- 17 (A) personal delivery to the individual; or
- 18 (B) mail as provided in Rule 5(B)(2) of the Indiana Rules
- 19 of Trial Procedure.
- 20 (b) Notice by mail must be deposited in the United States mail
- 21 not less than five (5) calendar days (excluding Saturdays, Sundays,
- 22 and national legal holidays recognized by the federal government)
- 23 before the date of the scheduled hearing or proceeding.
- 24 (c) Written notice may be given by either:
- 25 (1) a copy of a court order or docket entry; or
- 26 (2) a letter addressed to the individual required to be notified;
- 27 that states the date, time, and purpose of the hearing.
- 28 (d) Written notice is not required if verbal notice of the date,
- 29 time, place, and purpose of the hearing is given by the court at an
- 30 earlier hearing or proceeding at which the individual to be notified
- 31 is present.
- 32 (e) Written notice is not required if:
- 33 (1) the hearing or proceeding is scheduled to be held at a time
- 34 within forty eight (48) hours (excluding Saturdays, Sundays,
- 35 and any day on which a legal holiday is observed for state
- 36 employees) after the court sets the time for the hearing or
- 37 proceeding; and
- 38 (2) the individual responsible for giving the notice under this

1 **section:**

2 **(A) provides verbal notice of the date, time, place, and**
 3 **purpose of the hearing or proceeding directly to the person**
 4 **required to be notified; and**

5 **(B) verifies by affidavit or testimony at the hearing that**
 6 **verbal notice was given as required under this subsection.**

7 **(f) Except as provided in subsection (d):**

8 **(1) the department is responsible for giving all notices of a**
 9 **hearing or proceeding in a child in need of services case under**
 10 **IC 31-34; and**

11 **(2) the prosecuting attorney or the probation department of**
 12 **the juvenile court is responsible for giving all notices of a**
 13 **hearing or proceeding in a delinquency case under IC 31-37."**

14 Page 34, line 28, delete "index of" and insert "**index a**".

15 Page 36, line 36, delete "IC 31-25-2-20." and insert "**IC**
 16 **31-25-2-20.4**".

17 Page 37, line 20, delete "worker" and insert "**caseworker**".

18 Page 37, line 28, delete "workers" and insert "**caseworkers**".

19 Page 39, line 38, delete "on" and insert "**on**:"

20 **(1)".**

21 Page 39, line 40, delete "neglect." and insert "**neglect; or**

22 **(2) facts presented to the court at a hearing in a child in need**
 23 **of services case commenced under IC 31-34 that are**
 24 **consistent with the facts and conclusions stated in the report,**
 25 **if the department approved the substantiated report after the**
 26 **court's determination."**

27 Page 41, line 23, delete "whether" and insert "**whether:**

28 **(1)".**

29 Page 41, line 23, after "is" insert "**properly**".

30 Page 41, line 24, delete "substantiated," and insert "**substantiated;**

31 **(2) child abuse or neglect occurred; or**

32 **(3) any person was a perpetrator of child abuse or neglect;".**

33 Page 41, line 24, beginning with "the determination" begin a new
 34 line blocked left.

35 Page 44, line 30, delete "(12)" and insert "**(10)**".

36 Page 45, line 17, strike "legal holidays," and insert "**any day on**
 37 **which a legal holiday is observed for state employees as provided**
 38 **in IC 1-1-9,**".

1 Page 45, between lines 23 and 24, begin a new line block indented
2 and insert:

3 **"(3) Each foster parent or other caretaker with whom the**
4 **child has been placed for temporary care under IC 31-34-4."**

5 Page 45, between lines 26 and 27, begin a new paragraph and insert:

6 **"(c) The court shall:**

7 **(1) provide a person who is required to be notified under**
8 **subsection (a)(2) or (a)(3) an opportunity to be heard; and**

9 **(2) allow a person described in subdivision (1) to make**
10 **recommendations to the court;**

11 **at the detention hearing."**

12 Page 46, between lines 1 and 2, begin a new paragraph and insert:

13 **"(d) The department shall notify each foster parent or other**
14 **caretaker with whom the child has been temporarily placed under**
15 **IC 31-34-2.5 of the detention hearing. The court shall:**

16 **(1) provide a person who is required to be notified under this**
17 **subsection an opportunity to be heard; and**

18 **(2) allow a person described in subdivision (1) to make**
19 **recommendations to the court;**

20 **at the detention hearing."**

21 Page 46, delete lines 15 through 17.

22 Page 46, line 18, delete "(e)" and insert "(d)".

23 Page 46, line 21, delete "(f)" and insert "(e)".

24 Page 46, line 25, delete "(g)" and insert "(f)".

25 Page 46, between lines 32 and 33, begin a new paragraph and insert:

26 **"(g) The department shall provide notice of the time, place, and**
27 **purpose of the initial hearing and any additional initial hearing**
28 **scheduled under this section to each foster parent or other**
29 **caretaker with whom the child has been temporarily placed under**
30 **IC 31-34-2.5, IC 31-34-4, or IC 31-34-5. The notice under this**
31 **subsection may be combined with the notice of the detention**
32 **hearing under IC 31-34-5. The court shall:**

33 **(1) provide a:**

34 **(A) person for whom a summons is required to be issued**
35 **under subsection (b); and**

36 **(B) person who is required to be notified under this**
37 **subsection;**

38 **an opportunity to be heard; and**

1 **(2) allow a person described in subdivision (1) to make**
 2 **recommendations to the court;**
 3 **at the initial hearing.**

4 SECTION 45. IC 31-34-11-1, AS AMENDED BY P.L.146-2006,
 5 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), unless
 7 the allegations of a petition have been admitted, the juvenile court shall
 8 complete a factfinding hearing not more than sixty (60) days after a
 9 petition alleging that a child is a child in need of services is filed in
 10 accordance with IC 31-34-9.

11 (b) The juvenile court may extend the time to complete a factfinding
 12 hearing, as described in subsection (a), for an additional sixty (60) days
 13 if all parties in the action consent to the additional time.

14 **(c) If the factfinding hearing is not held immediately after the**
 15 **initial hearing as provided under IC 31-34-10-9, the department**
 16 **shall provide notice of any factfinding hearing to each foster parent**
 17 **or other caretaker with whom the child has been placed for**
 18 **temporary care. The court shall provide a person who is required**
 19 **to be notified under this subsection an opportunity to be heard at**
 20 **the factfinding hearing.**

21 SECTION 46. IC 31-34-19-1.3 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2007]: Sec. 1.3. (a) **The department shall**
 24 **provide notice of the date, time, place, and purpose of the**
 25 **dispositional hearing under this chapter to each:**

26 **(1) party or person for whom a summons is required to be**
 27 **issued under IC 31-34-10-2; and**

28 **(2) foster parent or other caretaker with whom the child is**
 29 **placed for temporary care;**

30 **at the time the dispositional hearing is scheduled.**

31 **(b) The court shall:**

32 **(1) provide a person required to be notified under subsection**
 33 **(a) an opportunity to be heard; and**

34 **(2) allow a person described in subdivision (1) to make**
 35 **recommendations to the court;**

36 **at the dispositional hearing.**

37 SECTION 47. IC 31-34-19-2 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Any

1 predispositional report may be admitted into evidence to the extent that
 2 the report contains evidence of probative value even if the report would
 3 otherwise be excluded.

4 (b) If a report contains information that should not be released to the
 5 child or the child's parent, guardian, or custodian, a factual summary of
 6 the report may be admitted.

7 (c) The:

8 (1) child;

9 (2) child's parent, guardian, or custodian; and

10 (3) person representing the interests of the state;

11 **and a foster parent or other caretaker who is entitled to notice of**
 12 **the dispositional hearing under section 1.3 of this chapter** shall be
 13 given a fair opportunity to controvert any part of the report admitted
 14 into evidence.".

15 Page 47, line 12, delete "child," and insert "**child in person, or**
 16 **through an interview with, or written statement or report**
 17 **submitted by:**

18 (A) a guardian ad litem or court appointed special
 19 advocate for the child;

20 (B) a case manager; or

21 (C) the person with whom the child is living and who has
 22 primary responsibility for the care and supervision of the
 23 child;".

24 Page 47, line 12, beginning with "in" begin a new line block
 25 indented.

26 Page 47, line 25, after "(1)" insert "**require the department to**".

27 Page 48, between lines 5 and 6, begin a new paragraph and insert:

28 "SECTION 49. IC 31-34-22-1 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Before a case
 30 review under IC 31-34-21-2 or hearing under IC 31-34-21-7, the
 31 probation department or the ~~county office of family and children~~
 32 **department** shall prepare a report on the progress made in
 33 implementing the dispositional decree, including the progress made in
 34 rehabilitating the child, preventing placement out-of-home, or reuniting
 35 the family.

36 (b) Before preparing the report required by subsection (a), the
 37 probation department or the ~~county office of family and children~~
 38 **department** shall consult a foster parent of the child about the child's

1 progress made while in the foster parent's care.

2 (c) If modification of the dispositional decree is recommended, the
3 probation department or the ~~county office of family and children~~
4 **department** shall prepare a modification report containing the
5 information required by IC 31-34-18 and request a formal court
6 hearing.

7 SECTION 50. IC 31-34-22-2, AS AMENDED BY P.L.146-2006,
8 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2007]: Sec. 2. (a) Except as provided in subsection (b), a
10 report prepared by the state:

11 (1) for the juvenile court's review of the court's dispositional
12 decree; or

13 (2) prepared for use at a periodic case review under IC 31-34-21-2
14 or hearing under IC 31-34-21-7;

15 shall be made available to the child, and the child's parent, foster
16 parent, guardian, guardian ad litem, court appointed special advocate,
17 ~~or custodian, or any other person who is entitled to receive notice of~~
18 **the periodic case review or permanency hearing under**
19 **IC 31-34-21-4** within a reasonable time after the report's presentation
20 to the court or before the hearing.

21 (b) If the court determines on the record that the report contains
22 information that should not be released to ~~the child or the child's~~
23 ~~parent, foster parent, guardian, or custodian,~~ **any person entitled to**
24 **receive a report under subsection (a)**, the court is not required to
25 make the report available to the person as required in subsection (a).
26 However, the court shall provide a copy of the report to the following:

27 (1) Each attorney or guardian ad litem representing the child.

28 (2) Each attorney representing the child's parent, guardian, or
29 custodian.

30 (3) Each court appointed special advocate.

31 (c) The court may also provide a factual summary of the report to
32 the child or the child's parent, foster parent, guardian, or custodian.

33 ~~(d) In addition to the requirements of subsection (a), any report~~
34 ~~prepared by the state for the juvenile court's review shall also be made~~
35 ~~available to any court appointed special advocate within the same time~~
36 ~~period and in the same manner as required in the case of a parent under~~
37 ~~subsection (a). However, if under subsection (a) the court determines~~
38 ~~on the record that the report contains information that should not be~~

1 released to the parent; the court shall still provide a copy of the report
2 to any court appointed special advocate:

3 SECTION 51. IC 31-34-22-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may
5 be admitted into evidence to the extent that the report contains
6 evidence of probative value even if the evidence would otherwise be
7 excluded.

8 (b) If a report contains information that should not be released to the
9 child or the child's parent, guardian, ~~or~~ custodian, **or any other person**
10 **who is entitled to receive a report under section 2 of this chapter,**
11 a factual summary of the report may be admitted.

12 (c) The:

13 (1) child;

14 (2) child's parent, guardian, or custodian; and

15 (3) person representing the interests of the state;

16 **and any other person who is entitled to receive a report under**
17 **section 2 of this chapter** shall be given a fair opportunity to controvert
18 any part of the report admitted into evidence.

19 SECTION 52. IC 31-34-23-4, AS AMENDED BY P.L.129-2005,
20 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2007]: Sec. 4. If a hearing is required, IC 31-34-18 governs
22 the preparation and use of a modification report. The report shall be
23 prepared if the state or any person other than the child or the child's
24 parent, guardian, guardian ad litem, court appointed special advocate,
25 or custodian is requesting the modification. **Notice of any hearing**
26 **under this chapter shall be given in accordance with**
27 **IC 31-34-19-1.3."**

28 Page 52, line 38, delete "(2)each" and insert "**(2) each**".

29 Page 56, between lines 3 and 4, begin a new paragraph and insert:

30 "SECTION 79. IC 31-37-6-3 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** Notice of the
32 time, place, and purpose of a detention hearing shall be given to:

33 (1) the child; ~~and~~

34 (2) the child's parent, guardian, or custodian if the person can be
35 located; **and**

36 **(3) each foster parent or other caretaker with whom the child**
37 **has been placed for temporary care under IC 31-37-5.**

38 **(b) The court shall:**

1 **(1) provide a person who is required to be notified under**
 2 **subsection (a)(2) or (a)(3) an opportunity to be heard; and**
 3 **(2) allow a person described in subdivision (1) to make**
 4 **recommendations to the court;**
 5 **at the detention hearing.**

6 SECTION 80. IC 31-37-12-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The juvenile
 8 court shall hold an initial hearing on each petition.

9 (b) The juvenile court shall set a time for the initial hearing. A
 10 summons shall be issued for the following:

11 (1) The child.

12 (2) The child's parent, guardian, custodian, or guardian ad litem.

13 (3) Any other person necessary for the proceedings.

14 (c) A copy of the petition must accompany each summons. The
 15 clerk shall issue the summons under Rule 4 of the Indiana Rules of
 16 Trial Procedure.

17 **(d) The prosecuting attorney or the probation department of the**
 18 **juvenile court shall provide notice of the time, place, and purpose**
 19 **of the initial hearing scheduled or held under this section to each**
 20 **foster parent or other caretaker with whom the child has been**
 21 **placed for temporary care under IC 31-37-5 or IC 31-37-7. The**
 22 **court shall:**

23 **(1) provide a:**

24 **(A) person for whom summons is required to be issued**
 25 **under subsection (b); and**

26 **(B) person required to be notified under this subsection;**
 27 **an opportunity to be heard; and**

28 **(2) allow a person described in subdivision (1) to make**
 29 **recommendations to the court;**

30 **at the initial hearing.**

31 SECTION 81. IC 31-37-13-1 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Unless the
 33 allegations of a petition have been admitted, the juvenile court shall
 34 hold a factfinding hearing.

35 **(b) If the factfinding hearing is not held immediately after the**
 36 **initial hearing as provided under IC 31-37-12-9, the prosecuting**
 37 **attorney or probation department of the juvenile court shall**
 38 **provide notice of any factfinding hearing to each foster parent or**

1 other caretaker with whom the child has been placed for
 2 temporary care. The court shall provide a person required to be
 3 notified under this subsection an opportunity to be heard at the
 4 factfinding hearing.

5 SECTION 82. IC 31-37-18-1.3 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2007]: **Sec. 1.3. (a) The prosecuting attorney**
 8 **or probation department of the juvenile court shall provide notice**
 9 **of the date, time, place, and purpose of the dispositional hearing**
 10 **under this chapter to each:**

11 (1) party or person for whom a summons is required to be
 12 issued under IC 31-37-12-2; and

13 (2) foster parent or other caretaker with whom the child is
 14 placed for temporary care;

15 at the time the dispositional hearing is scheduled.

16 (b) The court shall:

17 (1) provide a person who is required to be notified under
 18 subsection (a) an opportunity to be heard; and

19 (2) allow a person described in subdivision (1) to make
 20 recommendations to the court;

21 at the dispositional hearing.

22 SECTION 83. IC 31-37-18-2 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2. (a) Any**
 24 **predispositional report may be admitted into evidence to the extent that**
 25 **the report contains evidence of probative value even if the report would**
 26 **otherwise be excluded.**

27 (b) If a report contains information that should not be released to the
 28 child or the child's parent, guardian, or custodian, a factual summary of
 29 the report may be admitted.

30 (c) The:

31 (1) child;

32 (2) child's parent, guardian, or custodian; and

33 (3) person representing the interests of the state;

34 **and a foster parent or other caretaker who is entitled to notice of**
 35 **the dispositional hearing under section 1.3 of this chapter** shall be
 36 given a fair opportunity to controvert any part of the report admitted
 37 into evidence.

38 SECTION 84. IC 31-37-20-4.5 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. (a) At least ten (10) days before a hearing under section 2 or 3 of this chapter, the probation department shall send notice of the hearing to each of the following:**

- (1) The child's parent, guardian, or custodian.**
 - (2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.**
 - (3) The child or an attorney who has entered an appearance on behalf of the child.**
 - (4) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:**
 - (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office;**
 - (B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or**
 - (C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.**
 - (5) Any other person who:**
 - (A) the probation department has knowledge is currently providing care for the child; and**
 - (B) is not required to be licensed under IC 12-17.2 or IC 31-27 to provide care for the child.**
 - (6) Any other suitable relative or person whom the probation department knows has had a significant or caretaking relationship to the child.**
- (b) The court shall provide to a person described in subsection (a) an opportunity to be heard and to make any recommendations to the court in a hearing under section 2 or 3 of this chapter. The right to be heard and to make recommendations under this subsection includes:**
- (1) the right of a person described in subsection (a) to submit**

1 a written statement to the court that, if served upon all parties
 2 to the delinquency proceeding and the persons described in
 3 subsection (a), may be made a part of the court record; and
 4 (2) the right to present oral testimony to the court and
 5 cross-examine any of the witnesses at the hearing.

6 (c) This section does not exempt the probation department from
 7 sending a notice of the review to each party to the delinquency
 8 proceeding.

9 (d) The court shall continue the hearing if, at the time set for the
 10 hearing, the probation department has not provided the court with
 11 a signed verification that any person required to be notified under
 12 this section has been notified in the manner stated in the
 13 verification, unless the person appears for the hearing.

14 SECTION 85. IC 31-37-21-2, AS AMENDED BY P.L.146-2006,
 15 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2007]: Sec. 2. (a) Except as provided by subsection (b), a
 17 report prepared by the state:

18 (1) for the juvenile court's review of the court's dispositional
 19 decree; or

20 (2) for use at a periodic case review or hearing under
 21 IC 31-37-20-2 or IC 31-37-20-3;

22 shall be made available to the child, and the child's parent, foster
 23 parent, guardian, guardian ad litem, custodian, ~~or~~ court appointed
 24 special advocate, **or any other person who is entitled to receive**
 25 **notice under IC 31-37-20-4.5** within a reasonable time after the
 26 report's presentation to the court or before the hearing.

27 (b) If the court determines on the record that the report contains
 28 information that should not be released to ~~the child or the child's~~
 29 ~~parent, foster parent, guardian, or custodian,~~ **any person who is**
 30 **entitled to receive a report under subsection (a),** the court is not
 31 required to make the report available to the person as required under
 32 subsection (a). However, the court shall provide a copy of the report to
 33 the following:

34 (1) Each attorney or a guardian ad litem representing the child.

35 (2) Each attorney representing the child's parent, guardian, or
 36 custodian.

37 (3) A court appointed special advocate.

38 (c) The court may also provide a factual summary of the report to

1 the child or the child's parent, foster parent, guardian, or custodian.

2 (d) In addition to the requirements of subsection (a), any report
3 prepared by the state for the juvenile court's review shall also be made
4 available to any court appointed special advocate within the same time
5 period and in the same manner as required in the case of a parent under
6 subsection (a). However, if under subsection (a) the court determines
7 on the record that the report contains information that should not be
8 released to the parent, the court shall still provide a copy of the report
9 to any court appointed special advocate.

10 SECTION 86. IC 31-37-21-3 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may
12 be admitted into evidence to the extent that the report contains
13 evidence of probative value even if the evidence would otherwise be
14 excluded.

15 (b) If a report contains information that should not be released to the
16 child or the child's parent, guardian, or custodian, **or any other person**
17 **who is entitled to receive a report under section 2 of this chapter,**
18 a factual summary of the report may be admitted.

19 (c) The:

20 (1) child;

21 (2) child's parent, guardian, or custodian; and

22 (3) person representing the interests of the state;

23 **and any other person who is entitled to receive a report under**
24 **section 2 of this chapter** shall be given a fair opportunity to controvert
25 any part of the report admitted into evidence.

26 SECTION 87. IC 31-37-22-4 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. If a hearing is
28 required, IC 31-37-17 governs the preparation and use of a
29 modification report. The report shall be prepared if the state or any
30 person other than the child or the child's parent, guardian, guardian ad
31 litem, or custodian is requesting the modification. **Notice of any**

1 **hearing under this chapter shall be given in accordance with**
2 **IC 31-37-18-1.3."**

3 Page 56, line 5, after "IC 31-9-2-128;" insert "IC 31-33-8-14;"

4 Renumber all SECTIONS consecutively.

(Reference is to SB 328 as reprinted February 21, 2007.)

and when so amended that said bill do pass.

Representative Summers